

Application No. 10/081,118

New Docket No.: 22321-00002-US1  
Old Docket No.: 20198-00059REMARKS

Claims 1-19 were pending in the application. Claims 12-18 were withdrawn.

Claims 20 and 21 are added in this Response. Claim 20 is a rewritten version of original claim 1. Claims 1, 2, 7 and 8 are canceled.

Entry of this amendment is kindly requested.

We note that no grounds were provided for rejection of claim 19. Upon review of Examiner's arguments directed to claims 1-11, there appear to be no grounds applicable to rejection of claim 19. In consequence, allowance of claim 19 is respectfully requested.

Rejections under 35 USC §112

Claims 1-11 stand rejected for indefiniteness. Claims 1, 2, 7 and 8 have been canceled. New claim 20 does not suffer the lack of antecedent basis, lack of clarity, or vagueness mentioned in the office action.

Claim 5 has been amended to be substantially in accord with Examiner's suggested revision.

Claim 6 has been amended to place the claim in proper Markush format.

Rejections under 35 USC §102

Claims 1-11 stand rejected as anticipated by Sakata (US 5,496,734). Sakata discloses a reagent and a method to analyse leukocytes in a blood sample that is a sample eventually containing erythrocytes. The composition contains at least one cationic or amphoteric surfactant and a fluorescent dye. The dye may be a nucleic acid labelling agent.

Examiner points to a section of the Sakata disclosure (column 10, line 63 to column 11, line 8) which describes the action of surfactants to "damage...the cell membranes". At column 11, lines 2-3. This passage does not describe the role of an ionophore which is a "compound or

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substance that forms a complex with an ion and transports it across a membrane". Stedman's Medical Dictionary, p. 891 (26th edition, 1995). There is no indication in Sakata that metal ions are complexed and transported across the cell membrane. Thus, Sakata never describes nor suggests a composition containing a ionic or non-ionic detergent, a dye and a ionophore.

For at least these reasons, Sakata does not anticipate nor render obvious the present invention as claimed in new claim 20 and claims depending therefrom.

Rejections under 35 USC §102(e)

Claims 1-7, 9-11 and 19 stand rejected as anticipated by Deka et al. (US 6,271,035).

The Examiner states that Deka et al discloses a reagent for identifying, counting and classifying blood cells using flow cytometry. The Examiner also states that the Deka et al. reagent comprises a lysing agent or non-ionic detergent and a fluorescent dye.

In particular, Deka et al. describes a fluorescent staining method for analyzing reticulocytes (i.e. erythrocytes) by flow cytometry and a composition to perform such method. This document describes a composition the use of which is to dye erythrocytes without destroying them. This is the contrary of the application under examination since the aim of the instant invention is to have a composition which destroys erythrocytes and just renders permeable the leukocytes membrane. Consequently, this document cannot describe the composition of the application under examination.

Deka et al. does not describe or suggest that the composition may contain a ionophore together with a ionic or non ionic detergent and a nucleic acid dye.

In consequence, for at least these reasons Deka et al. can not anticipate nor render obvious the present invention as claimed in claims 19, 20 and claims depending from claim 20.

No new matter has been added. Support for amended claims 5, 6 and 19 is found in the application as a whole. In particular, support for amended claim 19 is found on p. 10, ll. 12-30.

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In view of the above amendment, applicant believes the pending application is in condition for allowance.

Applicant hereby authorizes the Commissioner to please charge our Deposit Account No. 22-0185, under Order No. 22321-00001-US1 in the amount of \$1810.00 which includes the extension of time fee and the RCE fee, and any other fees deemed necessary, from which the undersigned is authorized to draw.

Dated: November 22, 2005

Respectfully submitted,

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